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April 15, 2011

TO: Members
Wisconsin Legislature

FROM: Bob Lang, Director

SUBJECT: State Tax and Fee Modifications Included in the Governor's 2011-13 Budget Recommendations

A number of legislators have requested information concerning state tax and fee changes included in the 2011-13 budget recommendations of the Governor. This memorandum responds to those inquiries.

The attached table provides a brief description of each state tax and fee modification proposed in the Governor's bill. The table consists of two parts: (1) tax increases and decreases; and (2) fee increases and decreases. Each entry in the table includes the agency name, the Legislative Fiscal Bureau's budget summary document item that describes the change in more detail, a summary of the proposed modification, and an estimate of the revenue change due to the tax or fee modification.

In the table, GPR represents general fund revenue. Revenue to a program revenue account is signified by PR and SEG signifies revenue to a segregated fund. "Unknown" means that no estimate of the revenue impact is available at this time. The fiscal effects shown in the table reflect estimates made by the administration; estimates prepared by this office during budget deliberations may be different.

In summary, the changes included in the Governor's budget would decrease net taxes by $33,872,000 (-$2,965,000 in 2011-12 and -$30,907,000 in 2012-13) and would increase net fees by $109,682,300 ($36,754,700 in 2011-12 and $72,927,600 in 2012-13).

The sum of these revenue changes for the 2011-13 biennium follows:

Net Tax and Fee Changes

	2011-12	2012-13	Total
GPR	-$2,965,000	-$30,907,000	-$33,872,000
PR	37,504,700	74,427,600	111,932,300
SEG	-750,000	-1,500,000	-2,250,000
TOTAL	$33,789,700	$42,020,600	$75,810,300

	2011-12	2012-13	Fund Source
TAX INCREASES			
GENERAL FUND TAXES			
Earned Income Tax Credit. [Page 184, Item 4]. Modify the percentages used to calculate the earned income tax credit (EITC) by increasing the percentage from 4% to 5% for claimants with one child, decreasing the percentage from 14% to 8% for claimants with two children, and decreasing the percentage from 43% to 40% for claimants with three or more children, beginning in tax year 2011. The state credit is calculated as a percentage of the federal EITC. With the proposed changes, it is estimated that the maximum state credit for families with one child would increase from $124 to $155 in tax year 2011. The maximum credit for families with two children would fall from $716 to $409, and the maximum credit for families with three or more children would fall from $2,473 to $2,300.	$20,300,000	$21,000,000	GPR
Dairy Manufacturing Facility Investment Credit Modifications. [Page 189, Item 12]. Specify that the provision that limits, to $200,000 for each manufacturing facility, the aggregate amount of dairy manufacturing facility investment tax credits a partnership, limited liability company (LLC), tax-option corporation, and dairy cooperative could claim would only apply to dairy cooperatives. All other entities would be subject to an aggregate total tax credit limit of $200,000. This modification would first apply to tax years beginning after December 31, 2010. In addition, convert the appropriation that is used to fund the credit from an annual appropriation to a continuing appropriation.	Minimal	Minimal	GPR
SHARED REVENUE AND TAX RELIEF			
Homestead Tax Credit -- Repeal Indexing Formula Factors. [Page 400, Item 2] Beginning with calendar year 2011, repeal the annual indexing of the maximum household income level, maximum property tax amount, and income threshold formula factors and, instead, continue these factors at their 2010 levels of $24,680, $1,460, and $8,060, respectively. Under current law, these credit factors are indexed annually by the percentage change between the average Consumer Price Index (CPI), as determined by the federal Department of Labor, for all urban consumers, U.S. city average, for the twelve months ending in July of the previous year and the average of the same index for the twelve months ending in July, 2008. The adjustment to the formula factors only occurs if the change in the CPI is a positive change. Based on these provisions, the 2011 indexing changes that would increase the maximum income level to $24,990, the maximum property taxes or rent constituting property taxes to $1,480, and the income threshold to $8,160 would not occur. Subsequent indexing for tax year 2012 (2012-13), and thereafter, would also not occur.	$2,000,000	$6,100,000	GPR
SUBTOTAL -- TAXES -- INCREASES	$22,300,000	$27,100,000	GPR

	2011-12	2012-13	Fund Source
TAX DECREASES			
GENERAL FUND TAXES			
Deferral of Capital Gain Reinvested in Wisconsin Businesses. [Page 182, Item 1]. Create an individual income tax deferral for any amount of a long-term capital gain if the taxpayer: (a) deposits the gain into a segregated account in a financial institution; (b) invests all of the proceeds in the account in a qualified Wisconsin business within 180 days of the sale of the asset generating the gain; and (c) notifies the Department of Revenue (DOR) that the capital gain has been reinvested and, therefore, will not be declared on the claimant's income tax return. Specify that the basis for the investment in the Wisconsin business would be calculated by subtracting the initial gain from the investment. Require the Wisconsin Economic Development Corporation (WEDC) to implement a program to certify qualified Wisconsin businesses for purposes of the capital gains deferral, and authorize the Corporation to certify businesses if it determines that the business meets the following criteria in the tax year immediately preceding the application: (a) the amount of payroll compensation paid by the business in Wisconsin is equal to at least 50% of the amount of all payroll compensation paid by the business; and (b) the value of real and tangible personal property owned or rented and used by the business in Wisconsin is equal to at least 50% of all such property owned or rented and used by the business. The proposed tax deferral would first apply for tax years beginning after December 31, 2010.	-$16,100,000	-$20,200,000	GPR
Capital Gain Exclusion for Wisconsin Businesses. [Page 183, Item 2]. Create an individual income tax exclusion for a taxpayer's qualifying gain from the sale of a Wisconsin capital asset that was purchased after December 31, 2010, and held for at least five years. Define "qualifying gain" as a long-term gain realized from the sale of any asset that is: (a) a Wisconsin capital asset in the year that it is purchased by the taxpayer and for at least two of the subsequent four years; and (b) held for at least five uninterrupted years. Define "Wisconsin capital asset" as: (a) real or tangible personal property that is located in this state and used in a Wisconsin business; or (b) stock or other ownership interest in a Wisconsin business. Define "Wisconsin business" as a business certified by the WEDC. Require the WEDC to implement a program to certify Wisconsin businesses for purposes of the new exclusion, and authorize the WEDC to certify businesses if it determines that the business meets the following criteria in the tax year immediately preceding the application: (a) the amount of payroll compensation paid by the business in Wisconsin is equal to at least 50% of the amount of all payroll compensation paid by the business; and (b) the value of real and tangible personal property owned or rented and used by the business in Wisconsin is equal to at least 50% of all such property owned or rented and used by the business. The proposed exclusion would first apply for taxable years beginning after December 31, 2015. Due to the provision's delayed applicability, no fiscal effect is estimated for the 2011-13 biennium. DOR estimates that (in 2012-13 dollars) the exclusion would reduce individual income tax collections by $6 million in the first year of the phase-in (2016-17) and by approximately $79 million annually when fully phased in.	See Text	See Text	

	2011-12	2012-13	Fund Source
Exclusion for Interest on Certain WHEFA Debt. [Page 184, Item 3]. Provide an individual and corporate income and franchise tax exclusion for interest income received on bonds or notes issued by the Wisconsin Health and Educational Facilities Authority (WHEFA) provided the bonds or notes are issued to a person who is eligible to receive bonds or notes from another issuer for the same purpose as the bonds or notes issued for the person by WHEFA and the interest income from those other bonds or notes would also be exempt.	Minimal	Minimal	GPR
Internal Revenue Code (IRC) Update. [Page 187, Item 10]. Update statutory references to the federal IRC to include changes relating to: (a) long-term care insurance that is provided as part of an annuity or life insurance contract or as a rider on annuity or life insurance contracts; (b) allowing participants in certain retirement plans to make contributions to designated Roth accounts or to roll over amounts in their plans to designated Roth accounts; and (c) permitting partial annuitization of a nonqualified annuity contract. The first item was authorized at the federal level under the Pension Protection Act of 2006, and the other two items were authorized under the Small Business Jobs Act of 2010. It is estimated that the item relating to long-term care insurance would decrease revenues by $710,000 in 2011-12 and $1,200,000 in 2012-13. The other two items are estimated to increase revenues by $940,000 in 2011-12 and $853,000 in 2012-13, but the long-term impact would likely be a decrease in revenues.	$230,000	-$347,000	GPR
Angel and Early Stage Seed Credit Modifications. [Page 188, Item 11]. Clarify that shareholders of tax-option corporations (S corporations) could claim the angel investment tax credit based on eligible investments made by the tax-option corporation. This provision would correct a drafting error to provide tax-option corporations with the same treatment provided to partnerships and LLCs. In addition, specify that, for investments made after December 31, 2007, for angel and early stage seed investment tax credits, the claimant would be required to hold the investment for three years, or if the investment were held for less than three years, to repay the credit in a manner prescribed by the DOR. The provision requiring that angel and early stage seed investments be held for three years after December 31, 2007, was enacted in 2007 Act 20. Prior to Act 20, the holding period was 12 months. This provision clarifies that the three-year holding period applies only to investments made after December 31, 2007. The 12-month holding period would apply to investments made before that date.	Minimal	Minimal	GPR
Combined Reporting--Pre-2009 Loss Carry-Forwards. [Page 190, Item 13]. Authorize combined groups to share net business loss carry-forwards that were incurred by group members before January 1, 2009. Starting with the first tax year beginning after December 31, 2011, and for each of the 20 subsequent tax years, for each tax year that a corporation was a member of a combined group and had a net business loss carry-forward from a tax year beginning prior to January 1, 2009, the corporation could use up to 5% of its remaining business loss carry-forward to proportionally offset the income of all other members of the combined group, to the extent that income was attributable to the unitary business. Before sharing the business loss carry-forward with group members, the corporation would first have to use the loss carry-forward to offset its own income for the tax year. If the full 5% of such business loss carry-forwards could not be completely used to offset the income of other members of the combined group, the remainder could be added to the portion of	-$9,200,000	-$37,200,000	GPR

	2011-12	2012-13	Fund Source
the corporation's loss carry-forward that could be used to offset the income of group members in the subsequent year. Under the current combined reporting provisions, business loss carry-forwards that originate on or after January 1, 2009, may be shared among group members under certain circumstances.			
Combined Reporting--DOR Authority to Disallow Commonly Controlled Groups. [Page 191, Item 14]. Delete the current requirement that DOR must disregard the tax effect of an election to include a commonly controlled business in a combined group, or disallow the election, for any year of the election period if the Department determines that the election has the effect of tax avoidance. Instead, prohibit DOR from disregarding the tax effect of an election to include a controlled business in a combined group, or from disallowing the election. This provision would apply retroactively to tax years beginning on or after January 1, 2009.	Unknown	Unknown	GPR
Jobs Tax Credit Modifications. [Page 192, Item 15]. Make the following modifications to provisions of the refundable jobs tax credit, under the state individual income and corporate income and franchise taxes: (a) delete the requirements that the credit be based on eligible employee wages between $20,000 and $100,000 in a tier I county or municipality, and wages between $30,000 and $100,000 in a tier II county or municipality; (b) provide that, for a claimant that increases net employment, the jobs credit would equal the lesser of 10% of wages paid to an eligible employee or $10,000; and (c) convert the appropriation from which jobs tax credit refunds are paid from an annual GPR appropriation to a continuing GPR appropriation. The jobs tax credit was enacted in 2009 Act 28, and equals up to 10% of the wages paid to an eligible employee and/or the amount of costs incurred to undertake training activities in a tax year. Specifically, under current law, a person that is certified by the Department of Commerce (the WEDC under the bill) can claim the jobs tax credit if, in each year for which the tax credit is claimed, the person increases net employment in the person's business and one of the following applies: a. In a tier I county or municipality, an eligible employee, for whom the tax credit is claimed, will earn at least $20,000 but not more than $100,000 in wages, in the year for which the credit was claimed. b. In a tier II county or municipality, an eligible employee, for whom the tax credit is claimed, will earn at least $30,000 but not more than $100,000 in wages, in the year for which the credit was claimed. c. In a tier I or tier II county or municipality, the person improves the job-related skills of any eligible employee, trains any eligible employee on the use of job-related new technologies, or provides job-related training to any eligible employee whose employment represents the employee's first full-time job.	Minimal	Minimal	GPR
Sales Tax Exemption for Modular and Manufactured Homes. [Page 195, Item 2]. Create an exemption from the sales and use tax for modular homes and manufactured homes that are sold in Wisconsin and used in real property construction activities outside this state. The proposal would become effective on the first day of the third month beginning after publication of the budget bill.	-$195,000	-$260,000	GPR

	2011-12	2012-13	Fund Source
Sales Tax Exemption For Oil and Fat Converted to Fuel. [Page 196, Item 3]. Create an exemption from the sales and use tax for sales of vegetable oil or animal fat that is converted into motor fuel that is exempt from the state motor vehicle fuel tax under the exemption for personal renewable fuel. Under the personal renewable fuel exemption, the motor fuel tax is not imposed on the first 1,000 gallons of renewable fuel produced or converted from another purpose each year by an individual and used by the individual in his or her personal motor vehicle, provided that the individual does not sell any such renewable fuel during that year. The proposed sales tax exemption would become effective on the first day of the third month beginning after publication of the budget bill.	Minimal	Minimal	GPR
SUBTOTAL -- TAXES -- DECREASES	-$25,265,000	-$58,007,000	GPR
FEE INCREASES			
FINANCIAL INSTITUTIONS			
Eliminate Registration Exemption for Certain Investment Advisors. [Page 178, Item 8]. Eliminate the exemption from the requirement to register as an investment advisor with DFI for the following entities: (a) private business development companies with total assets in excess of $10 million; (b) qualified institutional buyers; (c) other institutional investors with total assets in excess of $10 million; and (d) accredited investors that are private business development companies, trusts with assets of more than $5 million, and entities in which all of the equity owners are accredited investors. These provisions would apply on the later of the day after publication of the bill or October 1, 2011, and would require the entities identified above to pay registration fees to DFI.	$34,000	$34,000	PR
JUSTICE			
Nonprofit Organization Criminal History Record Check Fee. [Page 274, Item 9]. Specify that all nonprofit organizations be charged $7 per criminal record name search, instead of $2 per search, effective July 1, 2011. [As a result of this change and decreasing the fee charged to other non-governmental requesters from $13 to $7, a flat $7 fee would be charged to all requesters for a criminal record name search.] Under current law, criminal history search fees are permitted to be assessed on non-criminal justice related searches of the criminal history database, typically made in connection with employment or professional licensing applications. Current law provides that nonprofit organizations and governmental agencies pay $7 per request, while other requesters pay $13 per request. Current law also provides that effective July 1, 2011, the fee charged to nonprofit organizations will revert to $2. [Prior to 2009 Act 28, nonprofit organizations paid $2 per request for non-criminal justice related requests for criminal record name searches.]	$1,252,200	$1,252,200	PR
TRANSPORTATION			
Vehicle Title Fee. [Page 430, Item 5]. Increase the vehicle title fee by $9, from $53 to $62, first applying to fees collected for original titles or title transfers on the general effective date of the bill.	$10,500,000	$10,500,000	SEG

	2011-12	2012-13	Fund Source
Class D Skills Test Fee. [Page 450, Item 6]. Reduce the number of tests that a person who pays the first $15 fee for a Class D (regular automobile) driver's license skills test is entitled to take from three to two, and for each subsequent $15 fee from three to one, first applying to skills test fees paid on the general effective date of the bill. Although this change would result in some license applicants paying an additional $15 fee, the bill does not reflect a transportation fund revenue increase.	Unknown	Unknown	SEG
Electronic Business Transactions. [Page 451, Item 7]. Permit the Department to promulgate rules requiring a person to pay a fee, in addition to any other fee that may be imposed by the Department, for conducting an in-person, telephone, or paper transaction in lieu of using an electronic filing or submission option when the Department has made such an option available. Extend current law authority to accept payment by credit card, debit card, or any other electronic payment mechanism and to charge a convenience fee for such payments to all fees paid to the Department, rather than to only those related to motor vehicles and driver licensing. Although this item would authorize the creation of a new fee by administrative rule and would allow convenience fees under more circumstances, the bill does not reflect a transportation fund revenue increase.	Unknown	Unknown	SEG
UNIVERSITY OF WISCONSIN **Tuition Increase.** [Page 500, Item 9]. Increase tuition revenue expenditure authority to correspond with increases in resident undergraduate tuition of 5.5% in each year of the biennium. According to the administration, these amounts were calculated assuming that a 1% increase in resident undergraduate tuition charged to all resident students, including those enrolled at UW-Madison, would generate an additional $6.5 million annually in tuition revenues. Under current law, the Board of Regents may increase resident undergraduate tuition to: (1) generate revenues up to the amount of the tuition expenditure authority provided by the Legislature in the state budget; and (2) to fund certain additional items including the pay plan approved by the Joint Committee on Employee Relations. As a result, the tuition increases approved each year by the Board of Regents have generally been greater than the corresponding amount of additional tuition expenditure authority provided in past state budgets. Although the current law language related to the Regents' authority to increase tuition would not be modified under the bill, the Administration has indicated that tuition for resident undergraduate students would be increased by 5.5% in each year of the biennium, which corresponds to the additional tuition expenditure authority that would be provided under the bill.	$35,750,000	$71,500,000	PR
Student Technology Fee Revenues. [Page 500, Item 10]. Increase tuition revenue expenditure authority for instructional technology, advising, and undergraduate education to reflect projected higher student technology fee revenues attributable to general tuition revenue growth. The student technology fee is set as a percentage of overall tuition (2.5% at Madison, 2.0% at all other campuses) and therefore, fee revenues increase along with tuition.	$1,471,400	$2,701,300	PR
SUBTOTAL -- FEES -- INCREASES	$38,507,600 $10,500,000	$75,487,500 $10,500,000	PR SEG

	2011-12	2012-13	Fund Source
FEE DECREASES			
AGRICULTURE, TRADE AND CONSUMER PROTECTION			
Working Lands Initiative -- Repeal Fee for Rezoning from Farmland Preservation Zoning Districts. [Page 53, Item 7]. Repeal the conversion fee charged to persons requesting lands to be rezoned out of farmland preservation zoning districts to non-agricultural uses. Under current law, landowners may be eligible to claim farmland preservation tax credits for each acre of land contained in a certified farmland preservation zoning district. In most cases, land rezoned from a farmland preservation zoning district incurs a conversion fee, which is payable by the person seeking the rezoning. The minimum conversion fee is three times the highest-value category of tillable cropland in the county, town, village, or city in which the rezoning is located, typically known as the Grade 1 use value. Fees are collected by the local zoning authority for each acre converted and remitted to DATCP. Fees are deposited to the segregated working lands fund for various purposes related to farmland preservation programs.	-$750,000	-$1,500,000	SEG
COMMERCE			
Thermal System Insulation Installation Fees. [Page 130, Item 11]. Repeal the requirements that Commerce regulate installation of thermal system insulation and assess fees for thermal system insulation mechanics.	-$41,000	-$98,000	PR
HEALTH SERVICES			
Certification and Regulation of One- and Two-Bed Adult Family Homes. [Page 226, Item 17]. Repeal all provisions enacted in 2009 Wisconsin Act 28 relating to the authority of the Department of Health Services to certify and regulate one- and two-bed adult family homes, including the authority to charge a certification fee for these homes. To date, DHS has not implemented a certification system for these homes, and has not established a certification fee. Consequently, this item would not eliminate fees these facilities currently pay, but would prevent DHS from establishing certification fees in the future.	See Text	See Text	PR
JUSTICE			
Criminal History Record Check Fee. [Page 274, Item 9]. Specify that all requesters who are neither government agencies nor nonprofit organizations be charged $7 per criminal record name search, instead of $13 under current law. [As a result of this change and increasing the fee charged to nonprofit organizations from $2 to $7, effective July 1, 2011, a flat $7 fee would be charged to all requesters for a criminal record name search.] Under current law, criminal history search fees are permitted to be assessed on non-criminal justice related searches of the criminal history database, typically made in connection with employment or professional licensing applications. Current law provides that nonprofit organizations and governmental agencies pay $7 per request, while other requesters pay $13 per request. Current law also provides that effective July 1, 2011, the fee charged to nonprofit organizations will revert to $2. [Prior to 2009 Act 28, nonprofit organizations paid $2 per request for non-criminal justice related requests for criminal record name searches.]	-$961,900	-$961,900	PR

	2011-12	2012-13	Fund Source
NATURAL RESOURCES			
Eliminate Vehicle Environmental Impact Fee. [Page 332, Item 7]. Repeal the $9 per vehicle environmental impact fee that is assessed by DOT when a certificate of title is transferred for a new or used vehicle. Currently, the fees are deposited in the segregated environmental management account of the environmental fund.	-$10,500,000	-$10,500,000	SEG
SUBTOTAL -- FEES -- DECREASES	-$1,002,900 -$11,250,000	-$1,059,900 -$12,000,000	PR SEG